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Anne Volin Clerk of District Court

By: BRANDY PORTER
Deputy

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
IN AND FOR NATRONA COUNTY, WYOMING

EQUITABLE OIL PURCHASING
COMPANY,

Plaintiff,

v.

UNITED BANK, INC.

Defendant.

Case No. 106773

COMPLAINT

Plaintiff, Equitable Oil Purchasing Company alleges as follows:

1. Equitable Oil Purchasing Company ("Equitable Oil") is a Wyoming corporation with its main office and principal place of business in Casper, Wyoming.
2. Defendant United Bank, Inc. ("Bank") is a West Virginia banking corporation with its main office and principal place of business in West Virginia.
3. Jurisdiction is proper in this Court pursuant to Article 5, Section 10 of the Wyoming Constitution and the amount in controversy exceeds \$50,000.00.

4. Venue is proper in this Court under Wyo. Stat. § 1-5-107 because Equitable Oil resides in Natrona County.

The Fuel Supply Contract

5. Equitable Oil entered into a Refined Product Purchase Contract ("Fuel Supply Contract") with Blackjewel LLC ("Blackjewel") dated January 1, 2019 in which Equitable Oil agreed to provide diesel fuel and gasoline to Blackjewel's Belle Ayr and Eagle Butte Wyoming coal mines. Under the Fuel Supply Contract, Equitable Oil submitted invoices to Blackjewel the day after fuel was delivered by Equitable Oil to Blackjewel's mines. Blackjewel agreed to remit payment to Equitable Oil by electronic transfer of funds the same day it received the invoice. In summary, Blackjewel agreed to remit payment to Equitable Oil the day after fuel was delivered.

The Bank's Relationship with Blackjewel and Equitable Oil

6. On information and belief, the Bank made loans to Blackjewel for, among other purposes, to provide funds for Blackjewel's Wyoming mining operations. On information and belief, Blackjewel maintained deposit accounts with the Bank in which funds from sale of coal from its Wyoming coal mines were deposited. On information and belief, Blackjewel granted the Bank a security interest in mining leases and/or permits for, equipment located at, and/or funds derived from, Blackjewel's Wyoming mines.

7. The Bank remitted funds to Equitable Oil by electronic funds transfer dozens of times prior to July 1, 2019 to pay for fuel Equitable Oil supplied to Blackjewel's Wyoming mines.

The Bank's June 28, 2019 Agreement to Remit Funds to Equitable Oil

8. On June 27, 2019, Equitable Oil received from Blackjewel a copy of an ACH Transaction Approval Confirmation showing the Bank had transmitted \$283,489.80 to Equitable Oil for payment of invoices Equitable Oil had submitted to Blackjewel.
9. On June 28, 2019, Equitable Oil had not received the \$283,489.80 funds transfer.
10. Equitable Oil advised Blackjewel that Equitable Oil would not supply fuel to Blackjewel for the June 28 - 30, 2019 period because it had not been paid for prior fuel Equitable Oil had supplied.
11. In response, Jeff Hoops of Blackjewel offered to purchase fuel by charging the fuel cost to a credit card. Equitable Oil refused.
12. Mr. Hoops contacted Equitable Oil and asked Equitable Oil to supply fuel to the Wyoming mines if he could verify that funds would be remitted to Equitable Oil on July 1, 2019. Equitable Oil replied that Blackjewel's bank would have to directly verify to Equitable Oil that Blackjewel's bank would transfer the funds.
13. On June 28, 2019, David Mills, Vice President of the Bank, called Rachel Bowers at Equitable Oil to verify that the Bank would remit funds to Equitable Oil. Ms. Bowers informed Mr. Mills that Equitable Oil required written verification from the Bank that it would remit funds to Equitable Oil.
14. By email dated June 28, 2019 at 5:04 PM Mountain Time, Mr. Mills asked Ms. Bowers to provide wire transfer instructions "so that we [the Bank] can send a wire first thing Monday, July 1st to cover the fuel payment of \$283,489.80." In addition, he stated that an additional electronic transfer of funds "for \$237,245.59 was processed today for funds to be released on Monday."

15. In reliance on Mr. Mills' promises and agreement that the Bank would remit the funds he promised, Equitable Oil supplied \$228,922.63 in fuel to Blackjewel's Wyoming mines for the June 28 - 30, 2019 period.

The Bank Reneges on and breaches its promise to remit funds on July 1, 2019

16. First thing Monday morning, July 1, 2019, Rachel Bowers emailed to Mr. Mills the wire transfer instructions he requested.

17. Ms. Bowers then followed up with Mr. Mills several hours later, asking when Equitable Oil would receive the promised funds. Mr. Mills immediately responded, informing Equitable Oil that the Bank was reneging on and breaching its promises to remit all the funds it promised, stating:

Rachel,

Since our discussion on Friday a subsequent event has occurred which has caused a restriction on the account to be debited. ... Unfortunately, we will be forced to wait until a [court] motion has been granted [to allow the transaction to proceed].

Equitable Oil's demand for payment to the Bank

18. Equitable Oil learned that Blackjewel had filed a bankruptcy petition on July 1, 2019. On July 5, 2019, Equitable Oil made written demand on the Bank to remit funds it promised on June 28, 2019 that it would remit on July 1, 2019.

COUNT 1

Claim for Breach of Contract

19. Equitable Oil re-alleges the preceding allegations.

20. Equitable Oil informed Blackjewel and the Bank that it would not supply fuel to Blackjewel's Wyoming mines unless Blackjewel's bank agreed to remit funds to Equitable Oil. In response, David Mills on behalf of the Bank offered to transfer funds to Equitable Oil in the

amount of \$520,735.59 on July 1, 2019 in exchange for Equitable Oil supplying fuel to Blackjewel's Wyoming mines for the June 28 - 30, 2019 period.

21. Equitable Oil accepted the Bank's agreement to remit the promised funds and supplied \$228,992.63 in fuel to Blackjewel's Wyoming mines for the June 28 - 30, 2019 period.

22. The Bank remitted to Equitable Oil only \$237,245.59 of the \$520,735.59 it agreed to transfer to equitable Oil. It failed to remit the other \$283,489.80.

23. The Bank breached its agreement with Equitable Oil to remit all of the \$520,735.59 it agreed to transfer to Equitable Oil on July 1, 2019.

WHEREFORE, Equitable Oil prays for judgment against United Bank on its Count 1 as follows:

A. For judgment in the amount of \$283,489.80, plus interest accruing at the rate of 7.00% per annum from and after July 5, 2019 until entry of judgment;

B. For post-judgment interest at 10.00% per annum as provided under applicable law from the date of entry of judgment until the judgment is paid in full;

C. For such other and further relief as the Court deems just and equitable.

COUNT 2
Claim for Promissory Estoppel

24. Equitable Oil re-alleges the preceding allegations.

25. On behalf of the Bank, David Mills, its Vice President, made a clear and definite promise to Equitable Oil that the Bank would wire transfer \$283,489.80 and electronically transfer \$237,245.59 to Equitable Oil on July 1, 2019.

26. The Bank should have reasonably expected that Equitable Oil would supply fuel to Blackjewel for the June 28 - 30, 2019 period in reliance on Mr. Mills' promises.

27. Equitable Oil's reliance on Mr. Mills' promises was reasonable.

28. In reliance on Mr. Mills' promises, Equitable Oil supplied \$228,922.63 in fuel to Blackjewel's Wyoming mines for the June 28 - 30, 2019 period.

29. Blackjewel is a debtor in possession in a Chapter 11 bankruptcy case pending in West Virginia and has shut down its mining operations because it does not have funds to operate.

30. Under these circumstances, injustice to Equitable Oil can be avoided only by enforcing the promises Mr. Mills made on behalf of the Bank to remit funds to Equitable Oil.

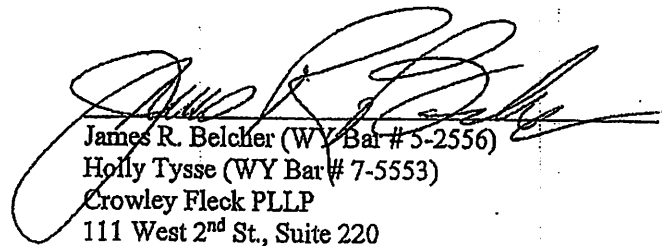
WHEREFORE, Equitable Oil prays for judgment against United Bank as follows:

D. For judgment in the amount of \$228,922.63, plus interest accruing at the rate of 7.00% per annum from and after July 5, 2019 until entry of judgment;

E. For post-judgment interest at 10.00% per annum as provided under applicable law from the date of entry of judgment until the judgment is paid in full;

F. For such other and further relief as the Court deems just and equitable.

DATED this 11th day of July, 2019.



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